

PART 1303—PUBLIC INFORMATION AND REQUESTS

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AUTHORITY: 5 U.S.C. 301, 5 U.S.C. 552 as amended, Executive Order 12600 (3 CFR 1988 Comp., p. 235)

SOURCE: 70 FR 47080, Aug. 12, 2005, unless otherwise noted.

§ 1303.101 Scope

This part sets forth the policies and procedures of the U.S. Nuclear Waste Technical Review Board (Board) regarding public access to documents under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The provisions in the Act shall take precedence over any part of the Board's regulations in conflict with the Act. This part gives the procedures the public may use to inspect and obtain copies of Board records under the FOIA, including administrative procedures which must be exhausted before a request invokes the jurisdiction of an appropriate United States District Court for the Board's failure to respond to a proper request within the statutory time limits, for a denial of Board records or challenges to the adequacy of a search, or for denial of fee waiver.

§ 1303.102 Definitions.

For words used in this part, unless the context varies otherwise, singular includes the plural, plural includes the singular, present tense includes the future tense, and words of one gender include the other gender.

(a)(1) Agency records—include materials that are in the control of the

Board and associated with Board business, as follows:

- (i) Materials produced by the Board.
- (ii) Materials produced a consultant for the Board.
- (iii) Materials distributed by presenters at a Board meeting.
- (2) All references to records, include both the entire record, or any part of the record.
- (b) Board—The U.S. Nuclear Waste Technical Review Board.
- (c) Chairman—The Chairman of the Board as designated by the President.
- (d) Designated FOIA Officer—The person named by the Board to administer the Board's activities in regard to the regulations in this part. The FOIA Officer also shall be:

(1) The Board officer having custody of, or responsibility for, agency records in the possession of the Board.

(2) The Board officer having responsibility for authorizing or denying production of records from requests filed under the Freedom of Information Act.

(e) Executive Director—The chief operating officer of the Board.

(f) Member—An individual appointed to serve on the Board by the President of the United States.

(g) Days—Standard working days, excluding weekends and federal holidays.

§ 1303.103 Public reading area.

(a) A public reading area is available at the Board office located at 2300 Clarendon Blvd., Suite 1300, Arlington, Virginia 22201. To use the reading area, contact the Director of Administration by:

(1) Letter to the address in this paragraph (a):

(2) Telephone: 703-235-4473;

(3) A request to the Board's Web site at <http://www.nwtrb.gov>; or

(4) Fax: 703-532-4495.

(b) Documents also may be requested through the Board's Web site or by letter or fax. Please ensure that the records sought are clearly described. Materials produced by the Board are in the public domain unless otherwise noted.

(c) Many Board records are available electronically at the Board's Web site (<http://www.nwtrb.gov>).

(d) Records of the Board available for inspection and copying include:

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(1) The rules and regulations of the Board.

(2) Statements of policy adopted by the Board.

(3) Board reports to the U.S. Congress and the U.S. Secretary of Energy.

(4) Board correspondence with Congress and the Department of Energy (DOE).

(5) Transcripts of Board meetings.

(6) Biographical information about current Board members.

(7) Copies of records released in response to FOIA requests.

(e) The cost of copying information available in the Board office shall be imposed in accordance with the provisions of § 1303.108.

§ 1303.104 Board records exempt from public disclosure.

5 U.S.C. 552 provides that the requirements of the FOIA do not apply to matters that are:

(a) Specifically authorized under the criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and in fact are properly classified pursuant to such an executive order.

(b) Related solely to the internal personnel rules and practices of the Board.

(c) Specifically exempted from disclosure by another federal statute, provided that such statute:

(1) Requires that records be withheld from the public in such a manner that leaves no discretion on the issue; or

(2) Establishes criteria for withholding or refers to particular types of matters to be withheld.

(d) Trade secrets, and commercial or financial information obtained from a person and privileged or confidential.

(e) Interagency or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the Board.

(f) Personnel, medical, or similar files that disclosing would constitute a clearly unwarranted invasion of personal privacy.

(g) Records or information compiled for law enforcement purposes. Buy only to the extent that the production of such law enforcement records or information:

(1) Could reasonably be expected to interfere with enforcement proceedings;

(2) Would deprive a person of a right to a fair trial or an impartial adjudication;

(3) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(4) Could reasonably be expected to disclose the identity of any confidential source, including a State, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and in the case of a record or information compiled by a criminal law enforcement agency in the course of a criminal investigation or by an agency conducting a lawful security intelligence investigation, information furnished by a confidential source;

(5) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law; or

(6) Could reasonably be expected to endanger the life or physical safety of any individual.

(h) Contained in or related to examination, operating, or condition reports, prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(i) Geological and geophysical information and data, including maps, concerning wells.

§ 1303.105 Requests for Board records.

(a) A written FOIA request must be submitted. You may:

(1) Write: NWTRB Designated FOIA Officer, 2300 Clarendon Boulevard, Suite 1300, Arlington, VA 22201;

(2) Send an e-mail request to foia@nwtrb.gov and specify that this is a FOIA request in the subject line; or

(3) Fax: 703-235-4495.

(b) When making a request for records about a person, Privacy Act regulations also may apply. Please check the regulations for additional requirements before submitting a request. When making a request for